

FILED

OCT 12 2022

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

KENNETH JOHNSON,

Defendant.

4:22CR558 JAR/SPM

INDICTMENT

The Grand Jury charges that:

INTRODUCTION

1. The United States Small Business Administration (hereinafter “SBA”) is an executive-branch agency of the United States government that provides support to entrepreneurs and small businesses. The mission of the SBA is to maintain and strengthen the nation’s economy by enabling the establishment and viability of small businesses and by assisting in economic recovery after disasters.

2. To aid this effort, the SBA enabled and provided for loans through banks, credit unions, and other lenders. These loans have government-backed guarantees.

3. The Coronavirus Aid, Relief, and Economic Security (hereinafter “CARES”) Act is a federal law that was enacted in March 2020 to provide emergency financial assistance to the millions of Americans suffering the economic impact caused by the COVID-19 pandemic. One source of relief provided for in the CARES Act is the authorization of forgivable loans to small businesses for job retention and certain other expenses, through the Paycheck Protection Program (hereinafter “PPP”).

4. To obtain a PPP loan, a qualifying business is required to submit a PPP loan application, signed by an authorized representative of the business. The PPP loan application requires the business to acknowledge the program rules and make certain affirmative certifications in order to obtain the PPP loan. In the PPP loan application (SBA Form 2483), the small business (through its authorized representative) is required to certify: (a) that the small business was in operation on February 15, 2020; (b) average monthly payroll expenses; and (c) number of employees. These certifications are used to calculate the amount of money the small business is eligible to receive under the PPP. In addition, businesses applying for PPP loans are required to submit documentation supporting their payroll expenses.

5. A PPP loan application is then processed by a participating lender. If a PPP loan application is approved, the participating lender funds the loan using its own monies, which are then guaranteed by the SBA.

6. PPP loan funds are required to be used on certain permissible expenses, including payroll costs, mortgage interest, rent, and utilities for the business. Under the applicable PPP rules and guidance, the interest and principal on the PPP loan is eligible for forgiveness if the business spent the loan proceeds on these expense items within a designated period of time and used a certain portion of the loan toward payroll expenses.

7. Customers Bank and Leader Bank, with branches located in St. Louis, Missouri, are financial institutions within the meaning of Title 18, United States Code, Section 20, the deposits of which are insured by the Federal Deposit Insurance Corporation.

8. Customers Bank and Leader Bank acted as a participating lenders in the PPP program, and in that capacity, accepted and processed PPP loan applications.

9. Customers Bank and Leader Bank wired funds to loan recipients once loans were reviewed and approved.

10. Defendant Kenneth Johnson (“Defendant Johnson”) was a resident of St. Louis, Missouri, in the Eastern District of Missouri.

COUNT I
(BANK FRAUD: 18 U.S.C. § 1344)

THE SCHEME TO DEFRAUD

11. Paragraphs 1-10 are realleged and incorporated by reference as if fully set forth herein.

12. In or about March 2021, in St. Louis, Missouri, in the Eastern District of Missouri, the defendant,

KENNETH JOHNSON,

devised and intended to devise a scheme and artifice to obtain moneys, funds, credits, assets, securities and other property owned by, or under the custody and control of Customers Bank, a financial institution, by means of false and fraudulent pretenses, representations, and promises.

MANNER AND MEANS

13. It was part of the scheme to defraud that Defendant Johnson applied for a PPP loan at Customers Bank with the intent to fraudulently obtain loan proceeds.

14. It was further part of the scheme to defraud that the defendant falsely represented in the PPP loan application that his total gross income for 2020 was \$360,700.

15. It was further part of the scheme to defraud that Customer’s Bank relied on the truthfulness of the defendant’s representations as to his income in reaching its decision to issue the loan.

16. On or about the dates set forth below in each individual count, in St. Louis, Missouri, in the Eastern District of Missouri, the defendant,

KENNETH JOHNSON,

executed and attempted to execute the scheme and artifice set forth above, to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of Customers Bank, which was a financial institution as defined in Title 18, United States Code, Section 20, by means of material false and fraudulent pretenses, representations, and promises, in that Defendant Johnson submitted a false and fraudulent PPP loan application to Customers Bank for the purpose of obtaining money, funds, credits, assets, securities, and other property owned by, and under the custody and control of U.S. Bank, as described below for each count, each submission constituting a separate count:

COUNT	DATE	LOAN APPLICATION	AMOUNT
I	March 31, 2021	SBA Loan # 3078858710 Application for Kenneth Johnson submitted to obtain funds from Customers Bank	\$20,833.00

All in violation of Title 18, United States Code, Section 1344.

COUNT II

(BANK FRAUD: 18 U.S.C. § 1344)

THE SCHEME TO DEFRAUD

17. Paragraphs 1-16 are realleged and incorporated by reference as if fully set forth herein.

18. In or about May 2021, in St. Louis, Missouri, in the Eastern District of Missouri, the defendant,

KENNETH JOHNSON,

devised and intended to devise a scheme and artifice to obtain moneys, funds, credits, assets, securities and other property owned by, or under the custody and control of Leader Bank, a financial institution, by means of false and fraudulent pretenses, representations, and promises.

MANNER AND MEANS

19. It was part of the scheme to defraud that Defendant Johnson applied for a PPP loan at Leader Bank with the intent to fraudulently obtain loan proceeds.

20. It was further part of the scheme to defraud that the defendant falsely represented in the PPP loan application that his total gross income for 2019 was \$360,700.

21. It was further part of the scheme to defraud that Leader Bank relied on the truthfulness of the defendant's representations as to his income in reaching its decision to issue the loan.

22. On or about the dates set forth below in each individual count, in St. Louis, Missouri, in the Eastern District of Missouri, the defendant,

KENNETH JOHNSON,

executed and attempted to execute the scheme and artifice set forth above, to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of Leader Bank, which was a financial institution as defined in Title 18, United States Code, Section 20, by means of material false and fraudulent pretenses, representations, and promises, in that Defendant Johnson submitted a false and fraudulent PPP loan application to Leader Bank for the purpose of obtaining money, funds, credits, assets, securities, and other property owned by, and under the custody and control of U.S. Bank, as described below for each count, each submission constituting a separate count:

COUNT	DATE	LOAN APPLICATION	AMOUNT
II	May 22, 2021	SBA Loan # 1754729002 Application for Kenneth Johnson submitted to obtain funds from Leader Bank	\$20,833.00

All in violation of Title 18, United States Code, Section 1344.

FORFEITURE ALLEGATION

The Grand Jury further finds by probable cause that:

1. Pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and Title 28, United States Code, Section 2461, upon conviction of offenses in violation of Title 18, United States Code, Section 1344 as set forth in Counts I and II, Defendant Kenneth Johnson shall forfeit to the United States of America any property, real or personal, which constitutes or is derived from proceeds traceable to such violations. Subject to forfeiture is a sum of money equal to the total value of any property, real or personal, constituting or derived from any proceeds traceable to such violation, which is \$41,666.

2. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America will be entitled to the forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

A TRUE BILL.

FOREPERSON

SAYLER A. FLEMING
United States Attorney

EDWARD DOWD, #61909(MO)
Assistant United States Attorney